

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

**JONATHAN LEE RICHES,
d/b/a Mr. Mastercard,**

Plaintiff,

v.

**Civil Action No. 1:07cv130
(Judge Keeley)**

**CRANDALL CANYON MINE,
BOB MURRAY, CEO Murray
Energy, and SAGO MINE,**

Defendants.

OPINION/REPORT AND RECOMMENDATION

The *pro se* plaintiff initiated this case by filing a civil rights complaint against the above-named defendants on September 24, 2007. Because the plaintiff did not pay the required filing fee, nor file a request to proceed as a pauper, the Clerk sent the plaintiff a deficiency notice that same day. In the notice, the plaintiff was advised that the further prosecution of his case would require either payment of the required filing fee, or the filing of a request to proceed as a pauper. The plaintiff was also advised that he must comply with the notice within thirty (30) days of the date it was entered, and that the failure to do so could result in the dismissal of his case.

A review of the file as of this date shows that the plaintiff has not paid the required filing fee nor filed a request to proceed as a pauper in the allotted time. In addition, the docket reveals that the plaintiff has not requested an extension of time to do so or otherwise explained his reasons for noncompliance. Accordingly, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, it is the recommendation of the undersigned that the instant case be **DISMISSED without prejudice**

for the failure to prosecute.

Within ten (10) days after being served with a copy of this Opinion/Report and Recommendation, any party may file with the Clerk of Court written objections identifying those portions of the recommendation to which objection is made and the basis for such objections. A copy of any objections shall also be submitted to the Honorable Irene M. Keeley, United States District Judge. The failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208.

The Clerk is directed to send a copy of this Opinion/Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket.

DATED: November 8, 2007.

John S. Kaull

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE